

UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:09cv377

HARLEYSVILLE MUTUAL)	
INSURANCE COMPANY,)	
)	
Plaintiff,)	PLAINTIFF’S MOTION FOR
)	JUDGMENT ON THE PLEADINGS
vs.)	
)	
RICHMOND HILL, INC.,)	
)	
Defendant.)	
_____)	

NOW COMES Plaintiff, HARLEYSVILLE MUTUAL INSURANCE COMPANY (“Harleysville”), by and through counsel, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure and Local Rule 7.1, and hereby moves for judgment on the pleadings in its favor and against Defendant Richmond Hill, Inc. (“RHI”), on the ground that it appears from the face of the pleadings, in relation to Harleysville’s cause of action for declaratory relief in its Declaratory Judgment Complaint (Doc. 1) and RHI’s First Counterclaim for declaratory relief asserted with its Answer (Doc. 16), that there is no triable issue of whether RHI is a “mortgagee” under the Policy of Insurance, number OF-3M2977 (“the Policy”) issued by Harleysville to The Hammocks, LLC (“The Hammocks”). A memorandum of law in support of this Motion is served and filed with this Motion.

WHEREFORE, for the reasons set forth above and in the accompanying Memorandum of Law, Harleysville hereby prays that this Honorable court grant it the following relief:

1. That judgment on the pleadings be entered in favor of Harleysville in accordance with the foregoing motion;

2. That a declaration be entered that RHI is not a “mortgagee” as defined in the Policy;
3. That RHI’s First Counterclaim for declaratory relief (Doc. 16) be dismissed, with prejudice, in accordance with the foregoing motion; and
4. For all other and further relief as this Court in its discretion deems just and proper.

This the 7TH day of May, 2010.

/s/ David L. Brown

David L. Brown

N.C. State Bar No. 18942

dbrown@pckb-law.com

Brady A. Yntema

N.C. State Bar No. 25771

byntema@pckb-law.com

PINTO COATES KYRE & BROWN, PLLC

3203 Brassfield Road

Greensboro, NC 27410

Telephone: 336.282.8848

Facsimile: 336.282.8409

Michael R. Nelson

Pa. State Bar No. 65679

NELSON, LEVINE, de LUCA & HORST

518 East Township Line Rd.

Suite 300

Blue Bell, PA 19422

Douglas Y. Christian

Pa. State Bar No. 41934

BALLARD SPAHR, LLP

1735 Market Street, 51st Floor

Philadelphia, PA 19103-7599

*Attorneys for Plaintiff Harleysville Mutual
Insurance Company*

CERTIFICATE OF SERVICE

The undersigned certifies that the document to which this Certificate is affixed was served upon the party(s) to this action by means of the Electronic Filing System of the United States District Court for the Western District of North Carolina on May 7, 2010.

/s/ Brady A. Yntema

Brady A. Yntema

N.C. State Bar No. 25771

byntema@pckb-law.com

PINTO COATES KYRE & BROWN, PLLC

3203 Brassfield Road

Greensboro, NC 27410

Telephone: 336.282.8848

Facsimile: 336.282.8409

*Attorney for Plaintiff Harleysville Mutual
Insurance Company*